

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

2014 SEP 26 PM 1:38

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MICHAEL RICHARD MORRISSEY, PRO SE, §
TDCJ-CID No. 914587, §
Previous TDCJ-CID No. 518665, §
Kansas ID No. 23464, §
Kansas ID No. 23812, §
Kansas ID No. 20719, §
Kansas ID No. 3746-C, §
Nebraska ID No. 32934, §
Federal ID No. 87933-132, §

Plaintiff, §

v. §

2:13-CV-0074

TIMOTHY KING, Sgt. of Correctional §
Officers; GREGORY DAVID, Assistant §
Warden; and ROBERT H. KANE, JR., §
Acting Regional Director, §

Defendants. §

**ORDER DENYING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT
AND ORDER OF PARTIAL DISMISSAL**

Plaintiff MICHAEL RICHARD MORRISSEY, acting pro se and while confined in the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants and has been granted permission to proceed pursuant to Title 28, United States Code, section 1915.

On September 9, 2014, a Report and Recommendation was issued by the United States Magistrate Judge recommending that defendant's motion for summary judgment be denied; that plaintiff's claim for declaratory judgment be dismissed with prejudice for failure to state a claim

on which relief can be granted; and that plaintiff's claim against defendant KING in his official capacity be dismissed without prejudice for want of jurisdiction, FED.R.CIV.PRO. 12(b)(1).

The period for response has expired, and no objections have been filed by either party.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.


This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that defendant KING's Motion to Dismiss is DENIED.

IT IS FURTHER ORDERED THAT plaintiff's claim for declaratory judgment be DISMISSED WITH PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED; and that plaintiff's claim against defendant KING in his official capacity be DISMISSED WITHOUT PREJUDICE FOR WANT OF JURISDICTION, FED.R.CIV.PRO. 12(b)(1).

It is SO ORDERED.

Signed this the 26th day of September, 2014.


MARY LOU ROBINSON
United States District Judge